

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

DELANE HERRON

U.S. DISTRICT COURT  
EASTERN DISTRICT OF  
FILED

2013 DEC 18 P 3: 0

JON W. SANFILIPPO  
CLERK

(Full Name of Plaintiff or Plaintiffs)

vs

TELSMITH

(Full Name of Defendant or Defendants)

Case No. **13-C-1421**  
(Supplied by Clerk)

COMPLAINT

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court relating to the same occurrence involved in this action?  
☐ YES ☒ NO
- B. Have you begun other lawsuits in state or federal court?  
☐ YES ☒ NO
- C. If your answer to A or B was YES, provide the requested information below. If there is more than one lawsuit, describe each additional one on a separate sheet of paper, using the same outline.

1. Parties to the previous lawsuit

Plaintiff(s) NA

Defendant(s) NA

2. Court in which lawsuit brought (if federal court, name district; if state court, name the county)

3. Docket number \_\_\_\_\_
4. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending)?  
\_\_\_\_\_  
\_\_\_\_\_
5. Approximate date of filing lawsuit \_\_\_\_\_
6. Approximate date of disposition \_\_\_\_\_

## II. PARTIES

- A. Your name (PLAINTIFF) DELANE HERRON
- B. Your Address and Phone Number 4022 N. 45<sup>TH</sup> MILW, WI 53216  
(414) 378-7307  
(If there is more than one plaintiff, use the margin for extra space if you need it. List the address only if it is different from the address listed above).
- C. DEFENDANT (name) TEL SMITH
- D. Defendants address 10910 North Industrial Drive  
MEQUON, WI 53092
- E. Additional DEFENDANTS (names and addresses) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## III. STATEMENT OF CLAIM (follow instructions carefully)

State briefly as possible the *essential facts* of your case. Tell what each defendant did to you that caused you to file this suit against them. If you are complaining about more than one wrong, use a separate **numbered** paragraph for each wrong, and describe each wrong in that paragraph and only that paragraph. State only the facts. *Do not give any legal theories or arguments, do not cite any cases or statutes. Do not feel you have to use all the space. USE NO MORE THAN THE SPACE PROVIDED. THE COURT STRONGLY DISAPPROVES OF STATING CLAIMS OUTSIDE THE SPACE PROVIDED.*

STATEMENT OF CLAIM-Continued

ON February 6, 2012 I began MY employment with the DEFENDANT in the position of Production Helper. In early March 2013 I WAS AWARDED the position of Machine Shop Inspector. AFTER being awarded the position, I was denied proper training and was required to complete three SKILLS tests, none of which were ever administered to any other employee in the 100 year history of Telsmith before me. AFTER passing all three ~~test~~ and being subjected to three more that I also passed, on or about March 22, 2013 I was removed from the Machine Shop Inspector position and the position was given to a white employee. on April 19, 2013 I was laid off.

Begin statement of claim: I believe That the DEFENDANT  
discriminated against me on the basis of my  
Race (Black) by denying me proper  
Training, requiring me to test for a promotional  
position that in the 100 year history of  
TelSmith only required the awarded  
person to have the most Seniority to be  
awarded the position which I had the  
most, and removing me from the promotional  
position and Subjecting me to lay off, in  
Violation of Title VII of the Civil  
Rights Act of 1964, as amended.

Eastern District of Wisconsin

UNITED STATES DISTRICT COURT FOR THE ~~NORTHERN DISTRICT OF FLORIDA~~  
Civil DIVISION

**CIVIL RIGHTS COMPLAINT FORM**  
**TO BE USED BY PRO SE (NON-PRISONER) LITIGANTS IN ACTIONS**  
**UNDER 28 U.S.C. § 1331 or § 1346 OR 42 U.S.C. § 1983**

DELANE HERRON

(Enter full name of Plaintiff(s))

vs.

CASE NO: \_\_\_\_\_  
(To be assigned by Clerk)

TELSMITH  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Enter name and title of each Defendant.

If additional space is required, use the  
blank area below and directly to the right.)

**ANSWER ALL QUESTIONS ON THE FOLLOWING PAGES:**

**I. PLAINTIFF:**

State your full name and full mailing address in the lines below.

Name of Plaintiff: DELANE HERRON

Mailing address: 4022 N. 45TH ST  
MILW, WI 53216

**II. DEFENDANT(S):**

State the name of the Defendant in the first line, official position in the second line, place of employment in the third line, and mailing address. Do the same for **every** Defendant:

(1) Defendant's name: TELSMITH  
Official position: MACHINE SHOP  
Employed at: TELSMITH  
Mailing address: 10910 North Industrial Drive  
Mequon, WI 53092

(2) Defendant's name: \_\_\_\_\_  
Official position: \_\_\_\_\_  
Employed at: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_

(3) Defendant's name: \_\_\_\_\_  
Official position: \_\_\_\_\_  
Employed at: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_

(4) Defendant's name: \_\_\_\_\_  
Official position: \_\_\_\_\_  
Employed at: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_

**ATTACH ADDITIONAL PAGES HERE TO NAME ADDITIONAL DEFENDANTS**

#### IV. STATEMENT OF CLAIMS:

State what rights under the Constitution, laws, or treaties of the United States you claim have been violated. Be specific. Number each separate claim and relate it to the facts alleged in Section III. If claims are not related to the same basic incident or issue, they must be addressed in a separate civil rights complaint.

I believe that the Respondent  
discriminated against me on the basis  
of my race (Black) by denying me  
proper training, requiring me to test  
for a promotional position that in the 100  
year history of Telsmith only required the  
awarded person to have the most seniority  
to be awarded the position which I had the most,  
and removing me from the promotional position  
and subjecting me to layoff, in violation of Title VII of the  
Civil Rights Act of 1964, as amended.

#### V. RELIEF REQUESTED:

State briefly what relief you seek from the Court. Do not make legal arguments or cite to cases/ statutes.

Seeking A Settlement of \$40,000 to \$120,000  
which would not exceed over 3 years of my  
yearly salary that I was making before  
they unlawfully removed me from my position  
forcing me to go back to college for more classes  
that will help me get back to the level of income  
that I was making at Telsmith which could  
take up to three years to complete.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS OF FACT,  
INCLUDING ALL CONTINUATION PAGES, ARE TRUE AND CORRECT.

12-18-13  
(Date)

  
(Signature of Plaintiff)



### III. STATEMENT OF FACTS:

State briefly the FACTS of this case. Describe how each Defendant was involved and what each person did or did not do which gives rise to your claim. In describing what happened, state the names of persons involved, dates, and places. Do not make any legal arguments or cite to any cases or statutes. You must set forth separate factual allegations in separately numbered paragraphs. You may make copies of this page if necessary to supply all the facts. Barring extraordinary circumstances, no more than five (5) additional pages should be attached. (If there are facts which are not related to this same basic incident or issue, they must be addressed in a separate civil rights complaint.)

ON February 6, 2012, I began MY employment with the DEFENDANT in the position of Production Helper. IN early March 2013 I was awarded the position of Machine Shop Inspector. AFTER being awarded the position, I was denied proper training and was required to complete three SKILLS tests, none of which were ever administered to any other employee IN the 100 year history of TEISMITH before me. AFTER passing all three test and being subjected to three more that I also passed, on or about MARCH 22, 2013 I was removed from the Machine Shop INSpector position and the position was given to a White employee. ON April 19, 2013 I was laid off.



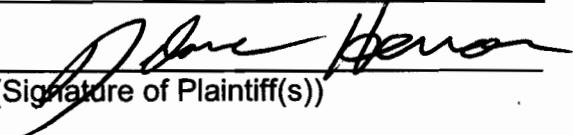
#### IV. RELIEF YOU REQUEST

State exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. DO NOT USE THIS SPACE TO STATE THE FACTS OF YOUR CLAIM. USE IT ONLY TO REQUEST REMEDIES FOR THE INJURIES YOU COMPLAIN ABOUT. Use only the space provided. The court strongly disapproves of requesting remedies outside the space provided.

Seeking A Settlement OF \$40,000 to \$120,000 which would not exceed over 3 years of my yearly salary that I was making before they unlawfully removed me from my position forcing me to go back to college for more classes that will help me get back to the level of income that I was making at tetsmith which could take up to three years to complete

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 18 day of Dec, 2013.

  
(Signature of Plaintiff(s))

Department of Workforce Development  
Equal Rights Division  
819 N. 6<sup>th</sup> Street, Rm. 723  
Milwaukee, WI 53203-1697  
Telephone: (414) 227-4384  
Fax: (414) 227-4084  
TTY: (414) 227-4081



Scott Walker, Governor  
Reginald J. Newson, Secretary  
Joe Handrick, Division Administrator

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**NOTICE OF COMPLAINT - EEOC TO PROCESS INITIALLY**

July 08, 2013

TELSMITH  
10910 N INDUSTRIAL DR  
MEQUON WI 53092  
Respondent

Re: ERD Case No. CR201301710  
EEOC Case No. 443201300954C

To Whom It May Concern:

The enclosed charge of discrimination, which was originally filed with the Federal Equal Employment Opportunity Commission (EEOC), has also been filed with the State of Wisconsin Equal Rights Division (ERD). The ERD and the EEOC have a work sharing agreement which covers the processing of complaints of discrimination that are prohibited under both federal law and the Wisconsin Fair Employment Act. The work sharing agreement provides that the agency which originally receives the complaint will process it first. Therefore, the ERD will take no action pending the EEOC's processing of this complaint.

If you have any further questions regarding this case, please contact the EEOC at 414-297-1112. Remember to have your EEOC case number ready for reference.

cc: Complainant  
EEOC

Enclosure

Department of Workforce Development  
Equal Rights Division  
819 N. 6<sup>th</sup> Street, Rm. 723  
Milwaukee, WI 53203-1697  
Telephone: (414) 227-4384  
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STATE OF WISCONSIN



Department of Workforce Development

Scott Walker, Governor  
Reginald J. Newson, Secretary  
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cc: Complainant  
EEOC

Enclosure

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA  
☒ EEOC
**443-2013-00954****Wisconsin Equal Rights Division**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mr. Delane Herron**

Home Phone (Incl. Area Code)

**(414) 378-7307**

Date of Birth

**██████-1971**

Street Address

City, State and ZIP Code

**8879 N 70th Street, Milwaukee, WI 53223**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**TELSMITH**

No. Employees, Members

**101 - 200**

Phone No. (Include Area Code)

**(414) 242-0069**

Street Address

City, State and ZIP Code

**10910 North Industrial Drive, Mequon, WI 53092**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE    ☐ COLOR    ☐ SEX    ☐ RELIGION    ☐ NATIONAL ORIGIN  
☐ RETALIATION    ☐ AGE    ☐ DISABILITY    ☐ GENETIC INFORMATION  
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**03-22-2013****04-19-2013**☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On February 6, 2012, I began my employment with the Respondent in the position of Production Helper. In early March 2013, I was awarded the position of Machine Shop Inspector. After being awarded the position, I was denied proper training and was required to complete three skills tests, none of which were ever administered to any other employee before me. On or about March 22, 2013, I was removed from the Machine Shop Inspector position and the position was given to a White employee. On April 19, 2013, I was laid off.

I believe that the Respondent discriminated against me on the basis of my race (Black), by denying me proper training, requiring me to test for a promotional position, removing me from the promotional position and subjecting me to layoff, in violation of Title VII of the Civil Rights Act of 1964, as amended.

**RECEIVED****MAY 09 2013**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

*Delane Herron*

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

Date

Charging Party Signature



**CHARGE OF DISCRIMINATION**

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Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**443-2013-00954****Wisconsin Equal Rights Division**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

**Mr. Delane Herron**

Home Phone (Incl. Area Code)

**(414) 378-7307**

Date of Birth

**██████-1971**

Street Address

City, State and ZIP Code

**8879 N 70th Street, Milwaukee, WI 53223**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**TELSMITH**

No. Employees, Members

**101 - 200**

Phone No. (Include Area Code)

**(414) 242-0069**

Street Address

City, State and ZIP Code

**10910 North Industrial Drive, Mequon, WI 53092**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE    ☐ COLOR    ☐ SEX    ☐ RELIGION    ☐ NATIONAL ORIGIN  
☐ RETALIATION    ☐ AGE    ☐ DISABILITY    ☐ GENETIC INFORMATION  
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**03-22-2013****04-19-2013**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

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I believe that the Respondent discriminated against me on the basis of my race (Black), by denying me proper training, requiring me to test for a promotional position, removing me from the promotional position and subjecting me to layoff, in violation of Title VII of the Civil Rights Act of 1964, as amended.

**RECEIVED****MAY 09 2013**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

**04/29/13****D. Herron**

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Delane Herron**  
**8879 N 70th Street**  
**Milwaukee, WI 53223**

From: **Milwaukee Area Office**  
**310 West Wisconsin Ave**  
**Suite 800**  
**Milwaukee, WI 53203**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

443-2013-00954

**Aurora Cheong-Ojeda,**  
**Enforcement Supervisor**

(414) 297-1111

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

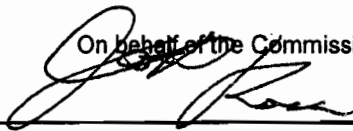
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



**John P. Rowe,**  
**Director**

SEP 18 2013

(Date Mailed)

Enclosures(s)

cc:

**Attn: Darren Maurer, Human Resources Director**  
**TELSMITH**  
**10910 North Industrial Drive**  
**Mequon, WI 53092**